



Billing Code: 4120-01-U-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10408 and CMS-10338]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Reinstatement with change of a previously approved collection; Title of Information Collection: Early Retiree Reinsurance Program Survey of Plan Sponsors; Use: Under the Patient Protection and Affordable Care Act (42 U.S.C. 18002) and implementing regulations at 45 CFR Part 149, employment-based plans that offer health coverage to early retirees and their spouses, surviving spouses, and dependents are eligible to receive tax-free reimbursement for a portion of the costs of health benefits provided to such individuals. The statute limits how the reimbursement funds can be used, and requires the Secretary of HHS to develop a mechanism to monitor the appropriate use of such funds. The

survey that is the subject of this information collection request, is part of that mechanism. CMS published a 60-day FR Notice on September 28, 2012 (77 FR 59615). The comment ended on November 27, 2012. No comments were received in response to this notice. Form Number: CMS-10408 (OCN: 0938-1150); Frequency: Yearly; Affected Public: Private Sector: Business or other for-profit and not-for-profit institutions; Public Sector; Number of Respondents: 927; Total Annual Responses: 927; Total Annual Hours: 10,197. (For policy questions regarding this collection contact David Mlawsky at (410) 786-6851. For all other issues call (410) 786-1326.)

2. Type of Information Collection Request: Extension of a currently approved collection; Title: Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-grandfathered Group Health Plans and Issuers and Individual Market Issuers; Use: The Patient Protection and Affordable Care Act, Public Law 111–148, (the Affordable Care Act) was enacted by President Obama on March 23, 2010. As part of the Act, Congress added PHS Act section 2719, which provides rules relating to internal claims and appeals and external review processes. On July 23, 2010, interim final regulations (IFR) set forth rules implementing PHS Act section 2719 for internal claims and appeals and external review processes. With respect to internal claims and appeals processes for group health coverage, PHS Act section 2719 and paragraph (b)(2)(i) of the interim final regulations provide that group health plans and health insurance issuers offering group health insurance coverage must comply with the internal claims and appeals processes set forth in 29 CFR 2560.503–1 (the DOL claims procedure regulation) and update such processes in accordance with standards established by the Secretary of Labor in paragraph (b)(2)(ii) of the regulations. The DOL claims procedure regulation requires an employee benefit plan to provide third-party notices and disclosures to participants and

beneficiaries of the plan. In addition, paragraphs (b)(3)(ii)(C) and (b)(2)(ii)(C) of the IFR add an additional requirement that non-grandfathered group health plans and issuers of non-grandfathered health policies provide to the claimant, free of charge, any new or additional evidence considered, or generated by the plan or issuer in connection with the claim. Paragraph (b)(3)(i) of the IFR requires issuers offering coverage in the individual health insurance market to also generally comply with the DOL claims procedure regulation as updated by the Secretary of HHS in paragraph (b)(3)(ii) of the IFR for their internal claims and appeals processes.

Furthermore, PHS Act section 2719 and the IFR provide that non-grandfathered group health plans, issuers offering group health insurance coverage, and self-insured nonfederal governmental plans (through the IFR amendment dated June 24, 2011) must comply either with a state external review process or a federal external review process. The IFR provides a basis for determining when such plans and issuers must comply with an applicable state external review process and when they must comply with the federal external review process. Plans and issuers that are required to participate in the Federal external review process must have electronically elected either the HHS-administered process or the private accredited IRO process as of January 1, 2012, or, in the future, at such time as the plans and issuers use the federal external review process. Plans and issuers must notify HHS as soon as possible if any of the above information changes at any time after it is first submitted. The election requirements associated with this ICR are articulated through guidance published June 22, 2011 at [http://cciio.cms.gov/resources/files/hhs\\_srg\\_elections\\_06222011.pdf](http://cciio.cms.gov/resources/files/hhs_srg_elections_06222011.pdf). The election requirements are necessary for the federal external review process to provide an independent external review as requested by claimants. Form Number: CMS-10338 (OCN: 0938–1099); Frequency:

Occasionally; Affected Public: State, Local, Tribal Governments; Business or other for-profit; Not-for-profit institutions; Number of Respondents: 46,773; Number of Responses: 218,657,161; Total Annual Hours: 930,267. (For policy questions regarding this collection, contact Linda Greenberg at (301) 492-4225. For all other issues call (410) 786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on **[insert date 30 days after date of publication in the Federal Register.]**

OMB, Office of Information and Regulatory Affairs

Attention: CMS Desk Officer

Fax Number: (202) 395-6974

E-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

Dated: January 8, 2013

---

Martique Jones

Deputy Director, Regulations Development Group

Office of Strategic Operations and Regulatory Affairs

[FR Doc. 2013-00468 Filed 01/10/2013 at 8:45 am; Publication Date: 01/11/2013]